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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-996)

Non-Oriented Electrical Steel from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that non-oriented electrical steel (NOES) from the People's Republic of China (the PRC) is being, or is likely to be, sold to the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2013, through June 30, 2013. The dumping margin is shown in the "Preliminary Determination and Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok or Yang Jin Chun, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0768 and (202) 482-5760, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils,

regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B₈₀₀ value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff

Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Scope Comments

For a complete discussion of scope comments received from interested parties and changes the Department made to the scope of the investigation, *see* Preliminary Decision Memorandum.¹ The “Scope of the Investigation” section above reflects all changes.

Postponement of the Preliminary Determination

On February 28, 2014, AK Steel Corporation (the petitioner) made a timely request for a 50-day postponement of the preliminary determinations for this and the other concurrent NOES LTFV investigations, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e).² On March 5, 2014, we published our notice of postponement of the preliminary determinations by 50 days in accordance with sections 733(c)(1)(A) and (2) of the Act and 19

¹ See Memorandum from Senior Advisor Gary Taverman to Acting Assistant Secretary Ronald K. Lorentzen entitled “Decision Memorandum for the Preliminary Determination in the Less Than Fair Value Investigation of Non-Oriented Electrical Steel from the People’s Republic of China” dated concurrently with this notice and hereby adopted by this notice (Preliminary Decision Memorandum).

² See letter from the petitioner to the Secretary of Commerce, “Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Request for Postponement of the Preliminary Determinations,” dated February 28, 2014.

CFR 351.205(f).³ As a result of the postponement, the revised deadline for the preliminary determination of this investigation is now May 15, 2014.

Methodology

The Department conducted this LTFV investigation in accordance with section 731 of the Act. Because none of the potential respondents in this investigation submitted separate rate applications, they are considered to be part of the PRC-wide entity. Because the PRC-wide entity did not provide necessary quantity-and-value data the Department requested, the PRC-wide entity failed to cooperate by not acting to the best of its ability. Therefore, the Department is assigning to the PRC-wide entity a rate based on facts available with an adverse inference.⁴ For further information, *see* the “Application of Adverse Facts Available” section in the Preliminary Decision Memorandum.⁵ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Critical Circumstances

On March 6, 2014, the petitioner alleged that critical circumstances exist with respect to imports of NOES from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), because the

³ *See Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 79 FR 13987 (March 12, 2014).

⁴ *See* sections 776(a) and (b) of the Act.

⁵ *See* Preliminary Decision Memorandum.

critical circumstances allegation was submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.⁶

In accordance with section 733(e)(1) of the Act, we preliminarily find critical circumstances exist with respect to the PRC-wide entity in this investigation. For a full discussion of our preliminary critical circumstances determination, *see* the “Critical Circumstances” section of the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

The Department preliminarily assigns the PRC-wide entity a rate of 407.52 percent as an adverse facts available rate. As described above, the Department found that critical circumstances exist with respect to the PRC-wide entity. Furthermore, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct U.S. Customs and Border Protection (CBP) to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy. In this LTFV investigation, with regard to PRC-wide entity, export subsidies constitute 1.57 percent⁷ of the preliminarily calculated countervailing duty rate in the concurrent countervailing duty investigation, and, thus, we will offset the PRC-wide rate of 407.52 percent by the countervailing duty rate attributable to export subsidies (*i.e.*, 1.57 percent) to calculate the cash

⁶ *See, e.g., Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

⁷ The following subsidy programs in the preliminary determination of the concurrent countervailing duty investigation are export subsidies: Preferential Export Financing from the Export-Import Bank of China (1.06 percent) and Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises (0.51 percent). *See Non-Oriented Electrical Steel From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 79 FR 16293 (March 25, 2014), and the accompanying Preliminary Decision Memorandum at 12-13.

deposit rate for this LTFV investigation. In accordance with sections 733(e)(2)(A) of the Act, we will direct CBP to suspend liquidation of all entries of NOES from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the *Federal Register*, and to require a cash deposit for such entries.

Disclosure and Public Comment

Because the Department has reached its conclusions on the basis of adverse facts available, the calculations performed in connection with this preliminary determination are not proprietary in nature, and are described in the Preliminary Decision Memorandum. Case briefs may be submitted to IA ACCESS no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ Rebuttal briefs may respond only to arguments raised in case briefs and should identify the arguments to which it is responding.⁹ For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for all of the concurrent LTFV and countervailing duty investigations. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁰

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request using IA ACCESS within 30 days after the publication of this preliminary determination in the *Federal Register*.¹¹ An electronically filed hearing request must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Time within 30 days

⁸ See 19 CFR 351.309.

⁹ See 19 CFR 351.309(c)(2).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ See 19 CFR 351.310(c).

after the date of publication of this notice.¹² Hearing requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a hearing request is submitted, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of NOES from the PRC before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 15, 2014.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

¹² *Id.*

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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